

ORDINANCE NO. 3004-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE AMENDING CHAPTER 19.58 CONCERNING
LARGE FAMILY CHILD CARE HOMES OF TITLE 19 (ZONING
CODE) OF THE SUNNYVALE MUNICIPAL CODE

WHEREAS, on September 11, 2012, the City Council of the City of Sunnyvale requested that the locational requirements for Large Family Child Care be a Council Study Issue to determine what opportunities there may be to consider reasonable standards, restrictions and requirements concerning spacing and concentration, traffic control, parking and noise related to Large Family Child Care in Sunnyvale.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 19.12.040 AMENDED. Section 19.12.040 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.040. "C"

(1) "Cardroom" means any establishment where any card game is played for currency, check, credit or any other thing of value.

(2) "Child care center" means a building or portion thereof in which nonresident children under eighteen years of age receive care and supervision for less than a twenty-four-hour period. "Child care center" includes infant centers, preschools, centers for mentally ill children and extended day care of school-age children but does not include "family child care homes."

(a) – (b) [Text unchanged.]

(3) – (16) [Text unchanged.]

SECTION 2. SECTION 19.12.050 AMENDED. Section 19.12.050 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.050. "D"

(1) "Day care center" means a building or portion thereof in which individuals receive care and supervision for less than a twenty-four-hour period for compensation or profit. "Day care center" does not include "family child care homes."

SECTION 3. SECTION 19.12.070 AMENDED. Section 19.12.070 of Chapter 19.12 (Definitions) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.12.070. "F"

(1) – (2) [Text unchanged.]

(3) "Family child care home." For definition, see Chapter 19.58 (Family Child Care Homes).

SECTION 4. TABLE 19.18.030 AMENDED. Table 19.18.030 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.18.030
Permitted, Conditionally Permitted and Prohibited Uses in Residential Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
MPP = Miscellaneous Plan Permit required
UP = Use Permit required
SDP = Special Development Permit required
N = Not permitted, prohibited

RESIDENTIAL ZONING DISTRICTS	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
1. – 3. [Text unchanged.]								
4. Commercial Uses								
A. – C. [Text unchanged.]								
D. Rest homes	UP	UP	N	UP	UP	UP	UP	N
5. – 7. [Text unchanged.]								

SECTION 5. TABLE 19.28.070 AMENDED. Table 19.28.070 of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.070
Permitted, Conditionally Permitted and Prohibited Uses in Mixed Use, Commercial and Office DSP Blocks

In the table, the letters and symbols are defined as follows:

P = Permitted use
SDP = Special development permit required
MPP = Miscellaneous plan permit required
N = Not permitted, prohibited

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20
1. Residential								
A. Single-family dwelling and accessory buildings and uses developed on an existing, legally created lot	N	N	N	N	N	SDP	N	SDP

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20
B. Single room occupancy (SRO) facilities	N	SDP	N	N	SDP	SDP	SDP	SDP
C. Two-family dwelling (duplex)	N	N	N	N	N	SDP	N	SDP
D. Multiple-family dwellings (3 or more units, or more than one main building) and accessory buildings and uses	N	SDP	SDP	SDP	SDP	SDP	SDP	SDP
E. Boarding for less than three persons	N	P	P	P	P	P	P	P
F. Facilities caring for 6 or fewer persons, as declared by the state to be a residential use	N	P	P	P	P	P	P	P
2. – 6. [Text unchanged.]								

SECTION 6. TABLE 19.28.080 AMENDED. Table 19.28.080 of Chapter 19.28 (Downtown Specific Plan District) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

TABLE 19.28.080
Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP Blocks

In the table, the letters and symbols are defined as follows:

P = Permitted use

SDP = Special development permit required

MPP = Miscellaneous plan permit required

N = Not permitted, prohibited

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16	6, 10a	8, 9, 10, 11, 12 and 17	8a	8b, 9a
1. - 2. [Text unchanged.]					
3. Commercial Uses	P	P	P	P	P
A. Child care/day care center/nursery schools	SDP	SDP	SDP	SDP	SDP
B. Hotels or motels	SDP	N	N	N	N
C. Rest Homes	SDP	SDP	SDP	SDP	SDP
4. – 6. [Text unchanged.]					

SECTION 7. CHAPTER 19.58 AMENDED. Chapter 19.58 (Day Care Facilities) of Title 19 (Zoning Code) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Chapter 19.58
Family Child Care Homes

- 19.58.010. Purpose.**
- 19.58.020. Definitions.**
- 19.58.030. Applicability.**
- 19.58.040. Large Family Child Care Home Distance and Operational Requirements.**
- 19.58.050. Large Family Child Care Home Distance Permit Required.**
- 19.58.060. Procedures.**

19.58.010. Purpose.

This chapter establishes standards and specific permitting procedures for family child care homes. These requirements address the growing community need for accessible child care while protecting the integrity of residential neighborhoods. These requirements are established under the authority granted by California Health and Safety Code Sections 1597.30 – 1597.621.

19.58.020. Definitions.

For purposes of this chapter, the following definitions shall apply:

(1) “Family child care home” means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away. A family child care home is an accessory use of a permitted residential property and is a state-licensed facility.

(2) “Large family child care home” means a family child care home for 9 to 14 children, including children under the age of 10 years who reside at the home, as defined by Health & Safety Code Section 1596.78(b), as amended from time to time.

(3) “Small family child care home” means a family child care home for 8 or fewer children, including children under the age of 10 years who reside at the home, as defined by Health & Safety Code Section 1596.78(c), as amended from time to time.

(4) “Home” means the licensee’s residence as defined by Government Code Section 244.

(5) “Licensee” means an adult licensed to operate a family child care home by the California Department of Social Services or designated state licensing agency, and who is primarily involved in providing care for the children during the hours that the home provides care.

19.58.030. Applicability.

This chapter applies to family child care homes in any zoning district. A family child care home is allowed as an accessory use to any permitted residential use subject to the operational standards and permitting requirements of this chapter.

19.58.040. Small Family Child Care Homes Allowed.

The operation of a small family child care home is allowed in any permitted residential use in any zoning district and is exempt from the operational and permitting requirements in this chapter.

19.58.050. Standards for Large Family Child Care Homes.

In addition to the terms or conditions of the state license, all large family child care homes shall comply with the following requirements:

(a) **300-foot Distance Required.** A large family child care home shall be located 300 feet or more from another large family child care home, as measured from any property line, within or outside the city. If only a portion of the property is located within 300 feet, the entire property is considered to be within 300 feet. A large family child care home within 300 feet of another large family child care home is prohibited unless a waiver is granted in accordance with 19.58.060(b).

(b) **Parking and Circulation.** Parking and circulation shall be provided as follows:

(1) **Single-Family Dwelling.** Onsite parking (8.5 feet wide by 18 feet long per space) for drop-off and pick-up shall be provided during hours of operation as follows:

(A) Sites with driveways that are 17 feet or wider shall provide at least two spaces.

(B) Sites with driveways less than 17 feet wide shall provide at least one space.

(C) Sites without a driveway are required to install/create at least one parking space.

(2) **Non Single-Family Dwelling.** For a large family child care home in a two-family or multi-family dwelling or mobile home park, onsite parking and circulation area shall be reserved in accordance with the site plan approved by Use Permit.

(c) **Outdoor Activities.** Outdoor activities such as play, entertainment or educational activities shall only occur before 9 a.m. and after 6 p.m.

(d) **Fences.** Outdoor play area of the large family child care home shall be enclosed with a 6 foot high solid fence (property line fence is permissible), unless the neighbor adjacent to a section of the fence signs a waiver to exclude this requirement.

(e) **Accessory Structures.** All accessory structures, including outdoor play equipment, are subject to the requirements of Chapter 19.40.

(f) **Signs.** A residential name plate may be installed subject to the requirements of subsection Section 19.44.050(h) (Residential name plate). No other signage advertising or identifying the large family child care home is allowed.

(g) **Home Occupation.** Large family child care home licensees shall maintain a Sunnyvale business license as required in Chapter 5.04 (Business License Tax).

19.58.060. Director Approval or Use Permit Required.

Except as otherwise modified in this chapter, the requirements and procedures identified in Chapter 19.98 (General Procedures) apply.

(a) **Director Approval—Single-Family Dwelling in Residential Zoning District.** Each licensee is required to obtain approval by the director of community development for operation of a large family child care home in a single-family dwelling in any residential zoning district. Without public notice or hearing, the director may approve or deny a large family child care home application upon determining its conformance with Section 19.58.050 (Standards for Large Family Child Care Homes) and applicable provisions of this title.

(b) **Use Permit; When Required.**

(1) A use permit granted by the planning commission is required for operation of a large family child care home in a permitted single-family dwelling in any nonresidential zoning district or in a two-family dwelling, multi-family dwelling or mobile home.

(2) If the site of the large family child care home is located within three hundred feet of a similar use, the applicant may request a waiver from the planning commission of the three hundred foot requirement through a use permit process.

(3) In accordance with the procedures and findings in Chapter 19.88 (Use Permits), and upon determining conformance with Section 19.58.050 (Standards for Large Family Child Care Homes) and other applicable provisions of this title, the planning commission may approve, conditionally approve or deny a use permit application.

(c) **Applications.** Large family child care home applications shall contain the following information:

(1) Name, address and contact information of the licensee and the property owner;

(2) Hours of operation;

(3) Site plan indicating the driveway parking spaces or other proposed onsite parking and circulation area reserved for drop-off and pick-up of children, and any proposed outdoor play structures;

(4) A written statement that the licensee has reviewed and shall maintain compliance with the operational requirements under Section 19.58.040; and

(5) Additional information as required by the director of community development.

19.58.070. Revocation of Use Permit by the Planning Commission.

A use permit for a large family child care home may be revoked by the planning commission, after a public hearing thereon, by an affirmative vote of a majority of its voting members, when the planning commission finds a violation of or noncompliance with the conditions of approval of the permit.

SECTION 8. SECTION 19.88.020 AMENDED. Section 19.88.020 of Chapter 19.88 (Use Permits) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.88.020. Authority and types of permits.

Authority for action on a use permit shall be vested as follows:

(a) Minor use permit determined by the director of community development for:

(1) Projects, structures or activities determined to pose no significant land use consequences;

(2) Those uses determined to be categorically exempt pursuant to the terms of the California Environmental Quality Act;

(3) Unenclosed accessory uses when otherwise required under Title 19.

(b) Major use permit determined by the planning commission for:

(1) All applications for a use permit other than those determined to be minor permits or for minor permits that are determined by the director of community development to require more extensive community participation;

(2) Floor area ratio which would otherwise meet the maximum of thirty-five percent except that floor area occupied by showers and/or dressing rooms provided for use by bicycle commuters increases the total floor area ratio over forty percent. This FAR bonus over thirty-five percent shall only be allowed for bicycle related facilities;

(3) Operation of a large family child care home in a single-family dwelling in any non-residential zoning district, or in a two-family or multi-family dwelling or in a mobile home.

(4) Large family child care homes requesting a waiver from the 300 feet distance requirement.

SECTION 9. SECTION 19.98.040 AMENDED. Section 19.98.040 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.040. Notice requirements.

(a) – (j) [Text unchanged.]

(k) Appeals. Notice of an appeal of an action to the heritage commission, planning commission or city council shall be made ten calendar days prior to the appeal hearing as follows:

(1) Minor permits:

(A) By mailing a copy of the notice to the owner of the subject property,

(B) By mailing a copy of the notice to the appellant,

(C) By mailing a copy of the notice to the owner of adjacent properties,

(l) – (m) [Text unchanged.]

SECTION 10. SECTION 19.98.070 AMENDED. Section 19.98.070 of Chapter 19.98 (General Procedures) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.98.070. Appeals.

(a) – (b) [Text unchanged.]

(c) Appeal of All Other Permits and Actions. Any person aggrieved, including a member of the planning commission or city council, by the decision of the director of community development, heritage preservation commission or planning commission may file an appeal after the date of such decision. The appeal shall be in writing stating the grounds therefor. All proceedings initiated by the decision of the director of community development or planning commission shall be suspended pending a determination on the merit of the appeal.

(1) Any decision by the director of community development may be appealed to the planning commission and city council, except:

(A) – (D) [Text unchanged.]

(E) A decision by the director on an application to operate a large family child care home in a single-family dwelling, where the decision of the director is final.

(F) – (G) [Text unchanged.]

(2)-(5) [Text unchanged.]

(d) [Text unchanged.]

SECTION 11. CEQA-. The City Council hereby determines that the action taken to amend these provisions of the Zoning Code is exempt from the California Environmental Quality Act (CEQA) Guideline 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 12. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 13. PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on October 22, 2013 and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on November 19, 2013 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

Date of Attestation: _____

(SEAL)

APPROVED AS TO FORM:

City Attorney